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January 21, 2000

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REGULATORY AUTH.
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EXECUTIVE SECRETARY

Mr. K. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

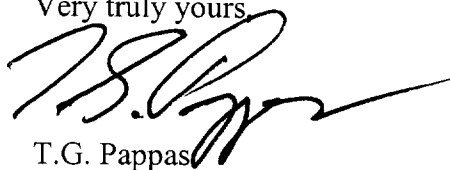
00-00026
**RE: Notice Of US LEC Corp. Of "Bona Fide Request" For An
Interconnection Agreement With TDS Local Exchange Carriers
Pursuant To 47 U.S.C. Sec. 251**

Dear Mr. Waddell:

Enclosed please find the original and thirteen copies of Motion of "TDS Local Exchange Carriers" To Suspend The Interconnection Request of US LEC Corp. Pursuant to 47 U.S.C. § 251(f)(2) for consideration in this matter. I would appreciate your bringing this matter to the attention of the Directors.

With kindest personal regards, I remain

Very truly yours



T.G. Pappas

TGP/jm#2083416
Enclosures

cc: Richard Collier, Esq.
Henry M. Walker, Esq.
James P. Lamoureux, Esq.
Val Sanford, Esq.
Mr. John Feehan
R. Dale Grimes, Esq.

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

RECEIVED
REGULATORY DIVISION

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IN RE:

NOTICE OF US LEC CORP. OF "BONA FIDE
REQUEST" FOR AN INTERCONNECTION
AGREEMENT WITH TDS LOCAL
EXCHANGE CARRIERS PURSUANT TO
47 U.S.C. SEC. 251

Docket No. 00-00026

EXECUTIVE SECRETARY

**MOTION OF "TDS LOCAL EXCHANGE CARRIERS"
TO SUSPEND THE INTERCONNECTION REQUEST
OF US LEC CORP. PURSUANT TO 47 U.S.C. § 251(f)(2)**

Concord Telephone Exchange, Tennessee Telephone Company, Tellico Telephone Company, and Humphreys County Telephone Company, all wholly-owned subsidiaries of TDS TELECOM (hereinafter referred to as "TDS" or the "Company"), hereby move the Authority to suspend the request of US LEC Corp., pursuant to 47 U.S.C. § 251(f)(2), to interconnect with the Company and to require the Company to undertake the interconnection obligations of 47 U.S.C. § 251(b) and (c), and further move that all similar requests be suspended pursuant to 47 U.S.C. § 251(f)(2) until final action on the petition filed by the Coalition in Docket No. 99-0613. For grounds, TDS states as follows:

1. All four TDS companies are rural carriers under the 47 U.S.C. § 153(37)(B), and therefore they are exempt from the provisions of 47 U.S.C. § 251(c) pursuant to 47 U.S.C. § 251(f)(1), and they are qualified to seek suspension or modification of the provisions of 47 U.S.C. § 251(b) pursuant to 47 U.S.C. § 251(f)(2).

2. In response to US LEC's initial correspondence concerning interconnection dated July 13, 1999, TDS explicitly asserted its right, as a rural carrier, to exemption from the § 251(c) interconnection requirements, and, as well, reserved its right to seek suspension from § 251(b) and

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(c) requirements pursuant to 47 U.S.C. § 251(f)(2). Through this filing with the Authority, in response to US LEC's correspondence dated December 7, 1999, and subsequent January 4, 2000 filing, TDS intends to continue to assert these rights granted under the Telecommunications Act. Any discussions with the Authority or US LEC do not constitute a waiver by TDS of either the § 251(f)(1) rural exemption or the § 251(f)(2) right to seek suspension or modification of the interconnection requirements.

3. In Docket No. 99-0613, the TDS Companies have joined with the Small Local Exchange Company Coalition (the "Coalition") to file a petition for temporary suspension of 47 U.S.C. § 251(b) and 251(c) pursuant to 47 U.S.C. § 251(f) and 47 U.S.C. § 253(b) until universal service and access reform rules and policies are established at the state and federal levels. Section 251(f)(2) allows the Commission, during the pendency of that petition, to "suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers," and the Coalition, including TDS, has requested that interim relief. Thus, instead of entertaining US LEC's request to terminate TDS's exemption, the Authority should immediately grant the interim relief requested in the Coalition's petition in Docket No. 99-0613, and suspend this proceeding concerning US LEC's request.

4. Without a suspension of this proceeding while Docket No. 99-0613 is pending, the request of US LEC will require the Authority and TDS not only to litigate the issues concerning the Coalition's request for suspension or modification of interconnection obligations generally at the same time they are litigating specific interconnection requests by US LEC and any other competing carriers that might deliver an interconnection request; but it also will require the parties to negotiate and/or arbitrate the implementation of the very same interconnection obligations TDS is simultaneously seeking to have suspended in Docket No. 99-0613. This would be an inefficient use of resources for all parties involved given that the same personnel of the companies and the

Authority staff would be directly involved in both interconnection negotiations and in this proceeding and the proceeding in Docket No. 99-0613. The Authority is no doubt keenly aware of the limited resources available to rural companies to respond to interconnection requests, including undertaking costly rural exemption inquiries. Furthermore, if the Authority grants the Coalition's petition in full (i.e. defer all interconnection requirements until the universal service and access reform proceedings have been concluded), US LEC's interconnection request will be moot, and any time spent on determining the issues raised by US LEC's request will have been wasted. Accordingly, the present request should be suspended pending the outcome of the Coalition's petition in Docket No. 99-0613.

5. In the alternative, US LEC's request for interconnection should be suspended because it could contravene the Authority's Order granting US LEC's CPCN. That Order, dated September 18, 1997, stated that US LEC "will not provide local service in competition with an incumbent, local exchange carrier with less than 100,000 access lines, except as may be permitted by state or federal law" such as Tenn. Code Ann. § 65-4-201(d). While the FCC has subsequently issued an order preempting that state statute, the FCC has not yet ruled on the Petitions For Reconsideration filed by both TDS and this Authority nor the Petition For Stay of Enforcement filed by the Authority. Assuming that Tenn. Code Ann. § 65-4-201(d) remains in full force and effect, the interconnection request made by US LEC herein is contrary to the commitment made in its CPCN, and should be suspended.

6. The US LEC interconnection request should also be suspended because in TDS' opinion, the letter submitted to TDS and filed with the Authority does not constitute a "bona fide" request and thus is not entitled to consideration under § 251(f)(1). The mere designation by US LEC of its request as "bona fide" does not make it so. However, only the Authority can designate any request as "bona fide" and thereby impose the burden of proof requirement on the rural carrier or

start the clock running on the various deadlines associated with a “bona fide” request. The statute contemplates that once a “bona fide” request is made, the state commission will conduct an inquiry to determine whether to terminate a company’s rural exemption. In those proceedings, the carrier has the burden to prove that such a request would be (1) unduly economically burdensome; (2) technically infeasible; and/or (3) inconsistent with principles enumerated in § 254 for the preservation and advancement of universal service. 47 C.F.R. § 51.405.

7. US LEC’s “broad brush” request for all interconnection rights under 251(b) and (c) does not begin to convey enough information for the TDS companies to properly evaluate the technical feasibility and economic impacts of the request as required under 47 U.S.C. §251(f)(1)(b), and therefore cannot be deemed “bona fide.” US LEC has asked for interconnection with all four TDS companies in Tennessee, but does not give any specifics as to the exchanges within those companies where they wish to interconnect. US LEC does not delineate specific services they wish to offer or obtain from TDS. Therefore, the true impact to TDS and its customers cannot be quantified. At a minimum, a “bona fide” request for interconnection that is intended to initiate a state commission determination regarding a company’s rural exemption should contain the following:

- (a) the specific dates, exchanges and point(s) within those exchanges where interconnection is desired;
- (b) any desired interface or technical specifications of such interconnection;
- (c) information concerning the type and quantity of unbundled elements requested;
- (d) specific locations of any collocation requested;
- (e) a listing of specific services desired for resale; and

(f) identification of any switches for which number portability is requested. Without this additional information the Commission will not be able to determine the "bona fides" of the request.

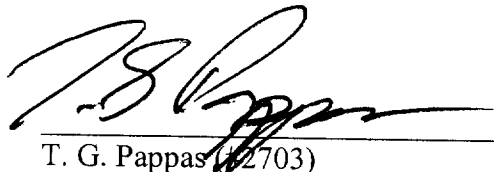
8. Even if US LEC's request were deemed "bona fide" by the Authority, the request should be suspended, for the additional reason that the process by which a rural carrier's federal exempt status is to be determined has not been defined by the Authority. Such a process should be clearly defined to ensure that due consideration is given to all aspects of the rural exemption and the implications of allowing competition in rural service areas. Many issues surround such a proceeding and represent "uncharted waters" for the Authority, TDS, and presumably, US LEC. Without specific procedural guidelines to help navigate the course, and due consideration of these complex issues, the Authority may unwittingly cause a great deal of economic harm to Tennessee consumers. As the Authority knows, the ramifications of an improper decision are far reaching and could directly impact the ability of the Company to continue to provide universal service throughout its territory. For example, TDS asserts that meaningful negotiations under § 252 cannot begin until after completion of the statutory required rural exemption proceeding, which must be concluded within 120 days of a "bona fide" request. Therefore, the 135-day period for voluntary negotiations cannot begin until the conclusion of this proceeding if it were to go forward. The Authority, however, has issued no rules to establish that schedule. Moreover, if TDS has the burden of proof it must be given guidance on the criteria that the Authority will use to determine if it should terminate TDS' rural exemption. The Authority, for example, should set forth the criteria and factors it will consider when determining whether an interconnection request is "economically burdensome," technically infeasible, or inconsistent with the universal service provisions in § 254 before requiring a rural carrier to participate in a proceeding under 47 U.S.C. § 251(f)(1). These are just a few of the points that should be clarified in order for the parties to make a record sufficient for the Authority

to carry out its responsibilities in § 251(f)(1), and in the absence of such clarification, the request of US LEC should be suspended.

WHEREFORE, for all the foregoing reasons, TDS respectfully requests:

- (1) that the Authority grant suspension of this proceeding pursuant to 47 U.S.C. § 251(f)(2) until final action on the petition filed by the Coalition in Docket No. 99-0613;
- (2) that the Authority order that US LEC's request for interconnection is not bona fide, and therefore does not trigger any time periods for the determination of the continuance of the rural exemption of TDS; and
- (3) that the Authority order that the time period for negotiation of the terms of an interconnection request pursuant to 47 U.S.C. § 252 does not commence until proceedings concerning the request to terminate the rural exemption of TDS under 47 U.S.C. § 251(f)(1) have been finally concluded.

Respectfully submitted,



T. G. Pappas (#2703)
R. Dale Grimes (#6223)
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Nashville, Tennessee 37238
(615) 742-6244

*Attorneys for Concord Telephone Exchange,
Tennessee Telephone Company, Tellico Telephone
Company, and Humphreys County Telephone
Company*

CERTIFICATE OF SERVICE

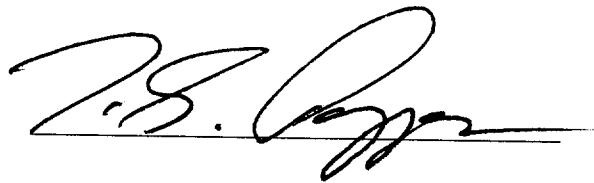
I hereby certify that on January 21, 2000, a copy of the foregoing Motion of "TDS Local Exchange Carriers To Suspend, Or In The Alternative, Deny, The Interconnection Request of US LEC Corp. Pursuant to 47 U.S.C. § 251(f)(1) was served on the following persons, via U. S. Mail, postage pre-paid, addressed as follows:

James P. Lamoureux
AT&T
1200 Peachtree St., NE, #4068
Atlanta, GA 30367

Val Sanford, Esquire
Gullett, Sanford, Robinson & Martin
230 Fourth Ave., N., 3rd Fl.
Nashville, TN 37219-8888

Richard Collier, Esquire
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0500

Henry M. Walker, Esquire
Boult, Cummings, et al.
414 Union St., #1600
Nashville, TN 37219

A handwritten signature in black ink, appearing to read "R. Collier", written over a horizontal line.

GRIMESRD/ 2082778